

1989

Charlesworth v. State of California : Brief of Appellant

Utah Court of Appeals

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Pete N. Vlahos; Attorneys for Respondent.

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BRIEF

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DOCKET NO. 89-0297

IN THE COURT OF APPEALS OF THE STATE OF UTAH

LAURIAN P. CHARLESWORTH,
Plaintiff and Respondent,

BRIEF OF APPELLANT

STATE OF CALIFORNIA and
BLANCA H. CHARLESWORTH,

Defendants and
Appellant.

Civil No. 890297-CA

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APPEAL from the order of the Second Judicial District
Court, Weber County, Judge Stanton M. Taylor.

DEPOSITED BY THE
STATE OF UTAH
AUG 17 1990

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Brief of the Appellant
Case No: 890297-CA

CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES AND RULES

The following relevant sources are reproduced in the
addendum section:

Utah Code Annotated §77-31-1
Utah Code Annotated §77-31-9
Utah Code Annotated §77-31-31
Utah Code Annotated §77-31-38
Utah Code Annotated §78-2a-3(2)(h)
Utah Code Annotated §78-45-3

IN THE COURT OF APPEALS OF THE STATE OF UTAH

LAURIAN P. CHARLESWORTH,
Plaintiff and Respondent,

vs.

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LIST OF ALL PARTIES

Blanca H. Charlesworth; URESA petitioner, defendant, appellant
State of California; initiating state URESA defendant, appellant
State of Utah; responding state URESA defendant, appellant
Laurian P. Charlesworth; URESA plaintiff, respondent

STATEMENT OF JURISDICTION

The subject matter of this appeal is that of domestic relations relative to child support and visitation.

Jurisdiction over the subject matter of this appeal is vested in the Utah Court of Appeals pursuant to Utah Code Annotated §78-2a-3(2)(h) which states:

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(h) appeals from district court involving domestic relations cases, including but not limited to divorce, annulment, property division, child custody, support, visitation, adoption, and paternity;

NATURE OF PROCEEDINGS

On September 18, 1985 Blanca H. Charlesworth and the State of California submitted to the Department of Social Services a petition to obtain an obligation of support against Laurian P. Charlesworth pursuant to the Uniform Reciprocal Enforcement of Support Act, (hereinafter referred to as "URESA"). At a hearing before the Domestic Relations Commissioner for Weber County the payment of child support by Mr. Charlesworth was conditioned upon his being able to visit with the minor children. He was ordered to pay \$76.00 per month per child, said payments were to be made to and held by the Weber County Clerk Office. Counsel for defendants requested a review by the district court. The district court upon review affirmed the order of the Domestic Relations Commissioner. Counsel for plaintiff's then filed their Notice of Appeal to this forum.

STATEMENT OF THE ISSUES

1. Whether the District Court has jurisdiction to adjudicate visitation privileges in a proceeding under the Uniform Reciprocal Enforcement of Support Act.

2. Whether the payment of child support can be terminated or withheld as a result of the noncustodial parent being unable to exercise his rights of visitation.

STATEMENT OF THE CASE

A Decree of Divorce was entered in Weber County, Utah August 12, 1983, 1979 between the plaintiff Laurian P. Charlesworth and Blanca H. Charlesworth. In the decree the defendant was awarded the custody of the children, and child support was held in abeyance because of lack of an appearance by the defendant. The State of California and Blanca H. Charlesworth petitioned the State of Utah Department of Social Services to establish and enforce an obligation of support against Mr. Charlesworth through the Uniform Reciprocal Enforcement of Support Act. The Department of Social Services for the State of Utah served a Petition for Support and Order to Show Cause upon Mr. Charlesworth under and pursuant to the Uniform Reciprocal Enforcement of Support Act § 77-31-1 Utah Code Annotated, 1953, as amended. A hearing was held before the Honorable Maurice Richards, Domestic Relations Commissioner for the Second Judicial District Court. The Commissioner entered an ongoing order of child support and ordered that the Court Clerk not forward any payments until Mr. Charlesworth successfully exercised his visitation which the Commissioner granted. At the hearing before the Commissioner, counsel for the defendants objected to any restraints upon the payment of child support within a URESA proceeding. Defendants filed their objection thereto. The objection was heard before the Honorable Stanton M. Taylor, District Court Judge. The District Court refused to set aside the order of the Commissioner. The defendants appealed.

STATEMENT OF FACTS

On September 18, 1985 Blanca H. Charlesworth and the State of California submitted an URESA petition, alleging that Blanca H. Charlesworth's former husband, Laurian P. Charlesworth, is the father of Joseph Charlesworth, born February 3, 1980; Patrick Charlesworth, born January 7, 1982; and Charlene Charlesworth, born March 18, 1983 and that an order of support needed to be established for the three children.

On August 2, 1988, Laurian P. Charlesworth was served with a Petition for Support, and an Order to Show Cause why he should not be ordered to pay a reasonable sum of ongoing child support in accordance with the California URESA petition. At the October 18, 1988 hearing on the Order to Show Cause, respondent was represented by Pete N. Vlahos, Esq., and the State of California was represented by Utah Assistant Attorney General Karl G. Perry. The Order resulting from that hearing required the respondent to begin making payments of \$76.00 a month per child for ongoing child support.

Paragraph 3 of the Order reads, "That the Weber County Clerk's Office is directed to hold said funds until the Defendant, Blanca H. Charlesworth, allows the Plaintiff visitation with the minor children." The rest of the Order goes on to detail the visitation allowed and abates the support during the times of summer visitation.

The Order of the Commissioner was objected to by Utah Assistant Attorney General Karl Perry. A hearing was held before

the Honorable Stanton M. Taylor, on December 12, 1988 on the objection. During the hearing, attorney Karl Perry objected to the Commissioner's treatment of visitation issues in a URESA context, noting that child support was the sole issue properly within the Court's jurisdiction. The Court basically agreed, but said that since the divorce originally took place within the Courts jurisdiction, it had continuing jurisdiction to address visitation. (See transcript pg. 7-8). The court then continued the matter to see if visitation could be worked out. (T. pg. 13).

On March 13, 1989, the Court again heard the matter, and ruled that it would continue the Commissioner's Order. (T. pg 3). The Notice of Appeal was then filed on April 27, 1989.

SUMMARY OF ARGUMENT

That in a proceeding brought under the URESA provisions found in Utah Code Annotated § 77-31-1 1953, as amended, the only subject matter jurisdiction bestowed upon the District Court for the State of Utah is the determination of an obligation of child support and the enforcement of the same, and does not provide for im personum jurisdiction upon that parent which initiated the URESA action.

That the District Court lacks jurisdiction under the URESA statutes of the State of Utah to adjudicate any domestic issue related to visitation, and that the withholding of the payment of support cannot be authorized as a means to enforce the rights of visitation of the noncustodial parent in that the right to support belongs to the child and should not be held hostage because of the conduct of one of the parents.

ARGUMENT

I.

THE DISTRICT COURT LACKS JURISDICTION TO HEAR AND ADJUDICATE ISSUES INVOLVING VISITATION IN A URESA ACTION

The State of Utah, on behalf of the State of California, asks for relief from that portion of the District Court's Order conditioning Blanca H. Charlesworth's receipt of child support payments for her three minor children on respondent's satisfaction of his visitation rights for the reason that the judgment is void because this Court had neither subject matter jurisdiction nor personal jurisdiction over Blanca H. Charlesworth or her minor children to adjudicate visitation rights in this URESA case.

In Patterson v. Patterson, 581 P.2d 824 (Kan.App. 1978), a decree of divorce was entered in Texas, wherein the court ordered the father to pay child support, granted custody to the mother and awarded the father rights of visitation. After the father moved to Kansas, the mother initiated an URESA petition, seeking enforcement of the child support order in the responding state of Kansas. The Kansas trial court ordered the father to pay \$25.00 a week in support, but conditioned the disbursement upon the mother's fulfilling the father's visitation rights. The Kansas Court of Appeals reversed the trial court. The appellate court explained:

The purpose of the URESA is to improve and extend by reciprocal legislation the enforcement of duties of support. The goal sought by this legislation is to provide a prompt, expeditious way of enforcing the duty to support minor children without getting the parties involved in other complex, collateral issues. The act specifically declares that the remedies therein provided are in addition to and not in substitution for any other remedies. Nothing in the act allows the adjudication of child custody or visitation privileges or other matters commonly determined in domestic relations cases. We conclude that the trial court's order that payment of child support be withheld unless visitation rights are granted by the plaintiff was beyond its jurisdiction. The trial court did not have jurisdiction over the minor child for the reason that she was neither physically present in Seward County nor domiciled in Kansas and she had not been the subject of previous exercise by the court of its jurisdiction to determine her custody or care.

Id. at 825 (citations omitted).

In State ex rel. State of Washington v. Bozarth, 722 P.2d 48 (Or. App. 1986), the court decided to join the "weight of authority from other jurisdictions that have considered the question" (see footnote 2 of the opinion for citations to other cases), in determining that "interference with visitation rights may not be raised in" a URESA petition. Id. at 49. The court explicitly adopted the rationale stated in State ex. rel. Hubbard v. Hubbard, 329 N.W. 2d 202 (Wis. 1983):

The very purpose of the URESA requires that it be procedurally and substantively streamlined. Interstate enforcement of support obligations will be impaired if matters of custody, visitation, or a custodial parent's contempt are considered by the responding court. The introduction of such collateral issues will burden the efficiency of the URESA resolution of other family matters in a URESA proceeding may deter persons from invoking the URESA.

Bozarth at 50. Accord, Vigil v. Vigil, 494 P.2d 609 (Colo. App. 1972); County of Clearwater v. Petrash, 598 P.2d 138 (Colo. 1979)(en banc). In State v. Madden, 747 P.2d 367 (Or. App. 1987), the court followed its' holding in Bozarth, Supra and held that,

The support obligation runs to the child, not to the mother.... the interstate enforcement of support obligations would be greatly impaired if matters of custody, visitation and individual conduct were considered by the responding court in and URESA proceeding.

While these precedents from other jurisdictions are not controlling authority over this court, the Utah URESA provisions express clear legislative intent for courts to interpret the Utah provisions in accordance with interpretations given to URESA provisions from other jurisdictions. The act states,

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Utah Code Annotated §77-31-38.

Utah's URESA provision explicitly provides that participation of an URESA petitioner in an URESA proceeding does not confer jurisdiction over that petitioner in other matters.

Utah Code Annotated §77-31-31 reads,

Participation in any proceedings under this act shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.

The scope of jurisdiction vested in the District Court in a URESA action is set forth in Utah Code Annotated §77-31-9 which reads:

How duties of support enforced. All duties of support, including arrearages, and arrearages reimbursable to the state or a political subdivision thereof are enforceable by action irrespective of the relationship between the obligor and the obligee. Actions authorized under this act include establishment of paternity, wage assignments, garnishment, liens, execution of liens, contempt proceedings and any other collection or enforcement procedure.

When there is a lack of jurisdiction be it over the person or the subject matter then any judgment or order entered in a proceeding relying on such jurisdiction is void and of no effect. In Bowen v. Olsen, 246 P.2d 602 (Utah 1952), the trial court entered a default judgment against the defendant in a quiet title suit. The defendant challenged the order of the trial court more than three years after it was entered, arguing that the plaintiffs' service of process upon him was insufficient. The Utah Supreme Court finding that service of process was insufficient determined that because the trial court never had jurisdiction over the defendant, the trial court's order was "void on its face for lack of jurisdiction of the court", and doctrines of laches and res judicata did not bar the defendant's challenge. Bowen at 606. In Pifer v. Pifer, 229 S.E.2d 700 (North Carolina 1976), the parties were divorced in Florida. Mr. Pifer moved to North Carolina and in 1973 Mrs. Pifer filed a Petition for Support and affidavit in Florida under an URESA action. Judge Cline in the trial court in North Carolina ordered Mr. Pifer to pay current child support and also ordered that Mr. Pifer be allowed to visit the children in North Carolina and that such visitation be denied, all support payments

would immediately cease. Mr. Pifer ceased payments in December of 1973 based upon an oral order of Judge Cline that Mr. Pifer cease payments. In 1975 the district attorney filed a motion to strike that order terminating the payment of support and declare the same null and void. Judge Edens dismissed the motion on the ground that it was a collateral attack on a previous order and that the order must remain in effect until reversal or modified on appeal. Upon appeal the Court of Appeals of North Carolina noted that "[I]f a court has no jurisdiction over the subject matter, the judgment is void" and then considered the question of whether the trial judge had any jurisdiction in an URESA proceeding to enter an order pertaining to visitation privileges in Florida and North Carolina. The Court after review of the URESA statutes of North Carolina concluded that:

"This duty of support is the only subject matter covered by URESA. Nothing in the act allows the adjudication of child custody or visitation privileges or other matters commonly determined in domestic relation cases.

...it is our opinion that Judge Cline in the responding state of North Carolina had jurisdiction only to determine whether the defendant owed a duty of support to his children in the initiating state of Florida,...Judge Cline had no jurisdiction whatsoever to condition the support payments upon certain visitation privileges... Consequently Judge Cline had no authority to permit a discontinuance of the support payments upon a finding by him of an alleged violation of the condition of visitation privileges. Thus the *ex parte* orders... permitting the defendant to cease support payments, are manifestly null and void, and Judge Edens erred in refusing to hear the state's motion to set these orders aside."

Pifer at 703. In Hoover v. Hoover, 246 S.E.2d 179 (South Carolina 1978) the issue again considered whether a court had jurisdiction under URESA to impose visitation conditions on the duty of support. The Supreme Court cited Pifer v. Pifer, Id. and ruled that a court of the responding state had no jurisdiction to adjudicate matters of visitation. See also People of the State of Illinois ex rel. Winger v. Young, 397 N.E.2d 253 (Illinois 1979) held that under URESA, a responding court lacks authority to withhold child support payments until custodial parent makes child available for visitation.

In Fitzwater v. Fitzwater, 294 N.W.2d 249 (Michigan 1980) the Court of Appeals considered the question of whether a Michigan court has in personam jurisdiction to modify a foreign divorce decree in an URESA proceeding. The Court stated that "[T]he act does not, of course, grant in personam jurisdiction over a nonresident party not otherwise subject to the power of Michigan courts." Fitzwater at 251. In Thompson v. Kite, 522 P.2d 327 (Kansas 1974) the defendant Kite and her children were residents of the state of Missouri. She had petitioned for an URESA action in Kansas where the plaintiff Mr. Thompson resided. Subsequent thereto the plaintiff in an independent action petitioned for injunctive relief from the payment of child support because he had been unable to exercise visitation. Mrs. Kite filed a motion to dismiss the petition for want of jurisdiction and the district court sustained her motion. The plaintiff appealed, claiming that Mrs. Kite having appeared

in the reciprocal proceeding in Kansas and having entered into an agreement for visitation had submitted herself to the jurisdiction of the district court and that by failing to abide by the agreement entered therein was amendable to the jurisdiction of that court under the long-arm statutes of Kansas. The Supreme Court of Kansas affirmed the judgment of the district court dismissing the petition for want of jurisdiction. The Court expounded upon the purpose of URESA by stating that its purpose "was to enable parties to participate freely in reciprocal proceedings without exposing themselves to the danger of submitting to the jurisdiction of the responding court in other independent proceedings involving collateral matters." Thompson v. Kite, Id. at 330.

Because the District Court for Weber County State of Utah had no in personam jurisdiction over Blanca H. Charlesworth or the subject child nor subject matter jurisdiction over any domestic issues other than child support in this URESA proceeding, the Recommended Order signed by the Commissioner, and its' affirmation by the District Court, should be overturned to the extent that only the portion dealing with child support should stand.

II.

THE CONTINUOUS PAYMENT OF THE CHILD SUPPORT OBLIGATION SHOULD NOT BE MADE CONTINGENT UPON THE FREE EXERCISE OF VISITATION

Regardless of whether there is jurisdiction under a URESA action to hear matters and make adjudications as to issues

of visitation and child custody, the obligation to pay child support and the enforcement of the same is separate and apart from the enforcement of visitation interests. Utah Code Annotated §78-45-3 states that "Every man shall support his child;...". In Hills v. Hills, 638 P.2d 516 (Utah 1981), two parties were divorced, and in their divorce decree, the trial court adopted by reference the parties' stipulation to deprive the husband of all parental rights and obligations. One month later, in an action to collect child support, the district court amended the divorce decree and ordered the father to pay child support. On appeal, the Utah Supreme Court affirmed the trial court, stating that,

There is no merit to the contention that the parents' stipulation effectively terminated the father's parental obligations. The right to support from the parents belongs to the minor children and is not subject to being bartered away, extinguished, estopped or in any way defeated by the agreement or conduct of the parents.

Hills, at 517 (citations omitted). In Wasescha v. Wasescha, 548 P.2d 895 (Utah 1976) it was determined that a child's right to support is his own right, not his parent's. In French v. Johnson, 401 P.2d 315 (Utah 1965) the Utah Supreme Court determined that an award of child support in a decree cannot be avoided by the conduct or agreement of the parents See also Reeves v. Reeves, 556 P.2d 1267, 1268 (Utah 1976)("The children are unconditionally entitled to support from their parents; and the State is authorized by law and should be encouraged and aided as a matter of public policy to see that responsibility is borne

by them, both initially and in any necessary subsequent proceedings.")(emphasis added). in Despain v. Despain, 610 P.2d 1303 (Utah 1980), this Court refused to impose a system whereby the noncustodial parents obligation to provide support would be conditioned upon the custodial parents compliance with the legally-prescribed minimum rights of visitation. A stay of execution was lifted on a child support judgement in Race v. Race, 740 P.2d 253 (Utah 1987), where it was held that child support was an obligation imposed for the benefit of the children, not the divorcing spouse.

By conditioning the dispersal of the minor children's support from their father upon Blanca H. Charlesworth's accommodation of respondent's right of visitation is contrary to the letter and spirit of the law and in fact becomes a weapon wielded against the child to force a child's visitation with a noncustodial parent.

CONCLUSION

Pursuant to Utah Code Annotated §77-31-38 it should be the intent of this Court to construe and effectuate the general purposes of the Utah URESA provisions in uniformity with the laws of those states which have enacted URESA. The weight of authority in those states which have considered this question is that the only subject matter and purpose of URESA is to effectuate and enforce the payment of child support nation wide. No where in the URESA statutes for the state of Utah is there a grant of jurisdiction to hear matters relating to visitation.

There is no basis upon which the District Court can claim in personam jurisdiction over Blanca H. Charlesworth or the subject children, even though the divorce was in Utah. Therefore, because the District Court had no jurisdiction under the URESA proceedings to address visitation issues, and even if the District Court had jurisdiction over respondent's visitation rights, the laws of Utah clearly forbids conditioning the payment of the child support obligations in any way. In particular there is no authority for the District Court in a URESA proceeding to terminate or withhold the payment of child support in the manner ordered by the District Court in this matter. This Court should declare the order of the District Court of March 1989 and the orders entered at the hearings on August 2, 1989 null and void for lack of jurisdiction of the court.


DATED this 16th day of August, 1989.


KARL G. PERRY
Assistant Attorney General

PROOF OF SERVICE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing Appellants Brief to Pete N. Vlahos counsel for respondent at 2447 Kiesel Ave., Ogden, Utah 84401 on this 16th day of August, 1989.


KARL G. PERRY
Assistant Attorney General
Attorney for Appellants

ADDENDUM

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

77-31-1. Purposes. - The purposes of this act are to improve and extend by reciprocal legislation and enforcement of duties of support and to make uniform the law with respect thereto.

77-31-2. Definitions. As used in this act, unless the context otherwise requires:

(1) "State" includes any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any foreign jurisdiction in which this or a substantially similar reciprocal law or procedure is in effect.

(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(4) "Court" means the district court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(5) "Law" includes both common and statutory law.

(6) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise.

(7) "Obligor" means any person owing a duty of support.

(8) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof.

(9) "Governor" includes any person performing the functions of governor or the executive authority of any territory covered by the provisions of this act.

(10) "Support order" means any judgment, decree or order of support, whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.

(11) "Rendering state" means any state in which a support order is originally entered.

(12) "Registering court" means any district court of this state in which the support order of the rendering state is registered.

(13) "Register" means to file in the registry of foreign support orders.

(14) "Certification" shall be in accordance with the laws of the certifying state.

(15) "Department" means the Utah state Department of social services.

(16) "Title IV-D Agency" means the single and separate agency designated to enforce child support under an approved state plan pursuant to Title IV-D of the Social Security Act and authorized to reimburse costs and pay incentive under that title.

77-31-3. - Remedies additional to those now existing. - The remedies herein provided are in addition to and not in substitution for any other remedies.

77-31-4. - Extent of duties of support. - Duties of support arising under the law of this state when applicable under section 77-31-7 bind the obligor, present in this state, regardless of the presence or residence of the obligee.

77-31-5. - Interstate rendition. - The governor of this state (1) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and (2) may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the Commission of the crime was in the demanding or other state.

77-31-6. - Conditions of interstate rendition. - (1) Before making the demand on the governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the governor of this state may require any county attorney of this state to satisfy him that at least sixty days prior thereto the obligee brought an action for the support under this act, or that the bringing of an action would be of no avail.

iating state.

77-31-15. - Cost and fees. - There shall be no filing fee or other costs taxable to the obligee, but a court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both petitioner and respondent or either, be paid by the obligor.

77-31-16. - Jurisdiction by arrest. - When the court of this state, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction it may (1) as an initiating state request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process if that be permissible under the law of the responding state; or (2) as a responding state, obtain the body of the respondent by appropriate process.

77-31-17. - State information agency. - The department is hereby designated as the state information agency under this act, and it shall:

(1) Compile a list of the courts and their addresses in this state having jurisdiction under this act and transmit the same to the state information agency of every other state which has adopted this or a substantially similar act; and

(2) Maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this act.

77-31-18. - Duty of court and county attorney of this state as responding state. - (1) After the court of this state acting as a responding state has received from the court of the initiating state the aforesaid copies, the clerk of the court shall docket the case and notify the county attorney of his action.

(2) It shall be the duty of the county attorney diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the respondent or his property and shall request the court to set a time and place for a hearing.

77-31-19. - Further duties of court and county attorney of this state in the responding state.

(1) The county attorney shall, on his own initiative, use all means at his disposal to trace the respondent or his property and if, due to inaccuracies of the petition or otherwise, the court cannot obtain jurisdiction, the county attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the court in the initiating state.

(2) If the respondent or his property is not found in the county and the county attorney discovers by any means that the respondent or his property may be found in another county of this state or in another state, he shall so inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the county attorney have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came.

(3) If the county attorney has no information as to the whereabouts of the obligor or his property, he shall so inform the initiating court.

77-31-20. - Procedure. - The court shall conduct proceedings under this act in the manner prescribed by law for an action for the enforcement of the type of duty of support claimed.

77-31-21. - Petitioner absent from responding state - Continuance. - If the petitioner is absent from the responding state and the respondent presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.

77-31-22. - Evidence of husband and wife. - Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

a foreign support order, the obligee has the additional remedies provided in the following sections [77-31-33 to 77-31-37].

77-31-33. - Registration of foreign support orders. - The obligee may register the foreign support order in a court of this state in the manner, with the effect and for the purposes herein provided.

77-31-34. - Registry of foreign support orders maintained by clerk. - The clerk of the court shall maintain a registry of foreign support orders in which he shall record foreign support orders.

77-31-35. - Petition for registration of foreign support order. - The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation.

77-31-36. - Jurisdiction and procedure. - The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

77-31-37. - Effect of registration - Enforcement procedure. - The support orders as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the respondent for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this state.

77-31-38. - Uniformity of interpretation. - This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

77-31-39. - Citation - Uniform Reciprocal Enforcement of Support Act. - This act may be cited as the Uniform Reciprocal Enforcement of Support Act.